IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. Appeal No.: 26 of 2001.

Reserved on: 05.12.2007.

Decided on: 07.12.2007.

State of Himachal Pradesh. …… Appellant.

Versus

Arun Kumar Sood. …… Accused/Respondent.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the Appellant: **Mr. M.A. Khan, Deputy Advocate General.**

For the Accused/Respondent: **Mr. C.N. Singh, Advocate vice Mr. N.D. Sharma, Advocate.**

Rajiv Sharma, Judge:

The respondent was accused in case No.5/2 of 1997 and he was prosecuted under Sections 341, 323 and 325 IPC in the Court of Judicial Magistrate Ist Class, Kasauli and was acquitted on 24.6.2000. The State has filed the present appeal against the acquittal of the accused.

The brief facts as projected in the judgment of the trial Court are that on 20.10.1996 in front of the shop of Vijay Brothers at old Bus Stand, Solan the accused confined the complainant Jog Raj Sharma and voluntarily caused simple as well as grievous hurt to him. Consequently, the matter was reported to the police on 20th

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Whether reporters of local papers may be allowed to see the judgment? No.

October, 1996 which led to registration of FIR No.236/96, dated 20.10.1996. The police investigated the case, prepared the site plan, got medically examined the complainant Shri Jog Raj Sharma and after completion of the investigation, the challan was put up in the Court.

The accused did not plead guilty to the charges under Sections 341, 325 and 323 IPC. The prosecution examined seven witnesses to prove its case against the accused. The statement of the accused was recorded under Section 313 Cr.P.C. The accused had examined only one DW and closed his evidence. The trial Court acquitted the accused on 24.6.2000, hence this appeal against the acquittal.

The learned Deputy Advocate General had strenuously argued that the prosecution had proved the charges against the accused. He also contended that the trial Court has not appreciated the evidence produced by the prosecution in its right perspective, which has led to grave mis-carriage of justice. Mr. C.N. Singh, Advocate appearing vice counsel for the accused had supported the judgment dated 24.6.2000.

PW-2 is Dr. B.K. Bhardwaj who has done the X-ray (Ex.PW-2/A). No fracture was shown in the X-ray film. PW-3 is Jog Raj Sharma, complainant. He has denied that he had quarreled with the accused for the carry-bag. He also admitted the presence of taxi and three-wheeler drivers there. He also deposed that 8-10 persons were there and the police post is about 20 meters from the spot. H.C. Jitender (PW-4) had investigated the case. PW-5 is H.C. Ved Parkash, who had partly investigated the case. PW-7 Shri Tara Dutt Sharma had deposed that Jog Raj and Arun Kumar were quarreling with each other. He also deposed that no one had sustained injuries.

This witness was declared hostile. One witness, Shri Bhagat Ram was not examined by the prosecution on the pretext that he was won over by the accused.

DW-1 Shri Rajesh Kumar had stated that on 20.10.1996 he had come to receive the payment of milk at about 10.30 A.M. He denied that the complainant had sustained injuries on his mouth.

The Investigating Officer had admitted that there were many persons on the spot, but they were not associated to prove the guilt of the accused. The complainant had deposed that the police had come on the spot, whereas, the I.O. had stated that the complainant Jog Raj Sharma went to the police station to lodge the report. The prosecution had failed to prove the charges against the accused. The trial Court has correctly appreciated the evidence produced by the parties and thereafter had acquitted the accused.

There is no merit in this appeal and the same is dismissed. The bail bonds furnished by the respondent-accused are hereby discharged.

December 07, 2007. **(Rajiv Sharma),**
(sck) **Judge.**